

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of Permits 20831 and 20832 (Applications 30067 and 30068)
Roy Kaufman

**ORDER APPROVING CHANGES IN PLACE OF USE
AND POINT OF DIVERSION
AND AMENDING THE PERMITS**

SOURCE: Carmel River (subterranean stream)

COUNTY: Monterey

WHEREAS:

1. (a) Permit 20831 was issued to Roy Kaufman on March 29, 1996, pursuant to Application 30067.

(b) Permit 20832 was issued to Leonard and Emily Williams Trust on March 29, 1996, pursuant to Application 30068 and subsequently assigned to Roy Kaufman on February 25, 2002.
2. Petitions to change the point of diversion and place of use were filed with the State Water Resources Control Board (SWRCB) for both permits on February 27, 2001, and the SWRCB has determined that good cause for such changes has been shown. Public notice of the changes was issued on November 30, 2001, and protest issues related to steelhead and red-legged frog have been resolved through development of permit conditions for inclusion in this order approving the petitions.
3. The SWRCB has determined that the petitions for change in point of diversion and place of use do not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
4. There is the possibility that buried archeological deposits may be present and accidental discovery could occur. In compliance with the California Environmental Quality Act, which states that a Lead Agency is required to make a provision for historical or unique archeological resources accidentally discovered during construction or operation of projects, a condition should be included in the permit requiring notification of the Chief of the Division of Water Rights if project activities uncover any buried archeological materials.
5. The SWRCB is the Lead Agency under the California Environmental Quality Act (CEQA), Public Resources Code 21000 *et seq.* The Division of Water Rights, under delegated authority from the SWRCB, prepared a Negative Declaration for the Change Petitions on the date of issuance of this order.

NOW, THEREFORE, IT IS ORDERED THAT PERMITS 20831 AND 20832 ARE AMENDED TO READ AS FOLLOWS:

1. Condition 2 of Permits 20831 and 20832 is amended to include the following additional point of diversion: By California Coordinate System of 1927, Zone 4, North 447,067.31 feet and East 1,163,916.62 feet being within the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of section 22, Township 16S, Range 1 E, MDB&M.
2. Condition 4 of Permits 20831 and 20832 is amended to allow use within the expanded place of use shown on the petition map received by the Division on March 2, 2001. Condition 4 is further amended as follows:

Water diverted under this permit shall only be used on those lots, or portions of lots, located within the Carmel River watershed as delineated on the map marked attachment A of the petitions to change the place of use and add a point of diversion to Permits 20831 and 20832 dated February 27, 2001, and received by the Division on March 2, 2001.

3. Condition 5 of Permit 20831 is hereby superceded and replaced with the following new condition 5:
 - (a) The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a 30-day average diversion rate of 0.5 cubic feet per second (cfs) to be diverted from January 1 to December 31 of each year. The maximum amount diverted under this permit shall not exceed 118.44 acre-feet annually (afa).
 - (b) Once the Chief of the Division of Water Rights certifies that an acceptable water supply project has been constructed which produces water to offset the 10,780¹ afa California American Water Company (Cal-Am) deficit identified in Water Rights Order 95-10, the average rate of diversion and total amount authorized for diversion under this permit shall increase proportionally to the percentage of the 10,780 afa deficit which is eliminated by an additional water supply project. Once the additional water project has reached a production of 2,882 afa (26.7% of the 10,780 afa deficit), the average rate of diversion and the total quantity of water diverted shall increase to a final maximum of 0.63 cfs and 150 afa, respectively.
4. Condition 14 (5) of Permit 20831 is written as follows:

The permittee shall irrigate and maintain the riparian corridor on permittee's property abutting the Carmel River if the Monterey Peninsula Water Management District and Cal-Am fail to perform this obligation.

Condition 14(5) is hereby amended to include the following additional requirement:

Any water appropriated for the maintenance of riparian vegetation shall be separately metered and added to the permit's interim limit of 118.44 afa contained in conditions 5 and 17, but shall not exceed the maximum diversion amount identified in the permit.

☐

¹ Water Rights Order 95-10 identifies a deficit of 10,730 afa. By agreement of the Permittee, Department of Fish and Game and National Marine Fisheries Service, the deficit is 10,780 afa for purposes of this permit condition.

8. All other conditions of Permits 20831 and 20832 are still applicable.

STATE WATER RESOURCES CONTROL BOARD

A handwritten signature in cursive script, appearing to read "Steven Antonio", written in black ink.

Edward C. Anton
Division Chief

Dated: **MAY - 2 2003**

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

AMENDED PERMIT 20831

Application 30067 of **Roy Kaufman**
 c/o Carmel Development Company
 P.O. Box 450
 Carmel, CA 93921

filed on **February 27, 1992**, has been approved by the State Water Resources Control Board (SWRCB)
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source:
**Carmel River (Subterranean
Stream)**

Tributary to:
Pacific Ocean

within the County of **Monterey**

2. Location of point of diversion

By California Coordinate System of 1927, Zone 4	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
North 448,078 feet and East 1,163,366 feet	SW¼ of NW¼	22*	16S	1E	MD
North 447,923 feet and East 1,163,751 feet	SW¼ of NW¼	22*	16S	1E	MD
North 447,520 feet and East 1,163,890 feet	SE¼ of NW¼	22*	16S	1E	MD
North 447,042 feet and East 1,163,980 feet	SE¼ of NW¼	22*	16S	1E	MD
North 447,067 feet and East 1,163,917 feet	SE¼ of NW¼	22*	16S	1E	MD

diversion and the total quantity of water diverted shall increase to a final maximum of 0.63 cfs and 150 afa, respectively.

(0000005)

6. Complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2005.

(0000009)

7. During the season specified in this permit, the total quantity and rate of water diverted and used under this permit and under permittee's claimed existing right for the place of use specified in the permit, shall not exceed the quantity and rate of diversion and use specified in this permit. To the extent that the permittee claims riparian, overlying, pre-1914 appropriative or other rights to use the water covered by this permit, the permittee shall not be entitled to water in excess of the amount authorized in this permit. Any priority obtained for a permit by virtue of condition 10 of Decision 1632 shall be void if the permittee and/or others divert more water under the permit and claimed underlying rights than is authorized on the face of the permit; however, the priority shall not be voided for the diversion of de minimis amounts which can reasonably be attributed to operational uncertainties. Insofar as the permittee complies with this permit condition, this permit is senior to the permit issued to the Monterey Peninsula Water Management District (MPWMD) pursuant to Application 27614.

Permittee shall forfeit all rights under this permit if permittee transfers all or any part of the claimed existing right for the place of use covered by this permit to another place of use without the prior approval of the State Water Resources Control Board (SWRCB).

Permittee shall take and use water under the existing right claimed by permittee only in accordance with law.

(0000021)

8. Permittee shall comply with the following provisions which are derived from the two agreements between permittee and MPWMD executed on August 21, 1992 and March 29, 1995; the agreement between permittee and the Department of Fish and Game (DFG) executed on March 27, 1995; and the agreement between permittee and California Native Plant Society executed on March 29, 1995, all of which are filed with the SWRCB:

- 1) Permittee shall remain subject to all lawful ordinances of MPWMD;
- 2) Permittee shall be subject to fees for the use of water from any public utility, including, but not limited to use fees, connection fees, and assessments;
- 3) The permittee shall be subject to the rationing requirements of MPWMD, in frequency and percentage no greater than required of consumers in Cal-Am's water distribution system in times of water supply shortage caused by drought;
- 4) Upon forty-eight (48) hours advance notice by DFG, permittee shall minimize or cease, if required, agricultural pumping for a single period not to exceed forty-eight (48) hours in any thirty (30) day period to assist DFG, to mitigate adverse flow conditions to benefit public trust fish and wildlife resources of the Carmel River; and
- 5) The permittee shall irrigate and maintain the riparian corridor on permittee's property abutting the Carmel River if MPWMD and Cal-Am fail to perform this obligation.

Any water appropriated for the maintenance of riparian vegetation shall be separately metered and added to the permit's interim limit of 118.44 afa contained in conditions 5 and 11, but shall not exceed the maximum diversion amount identified in the permit.

Inclusion in this permit of certain provisions of the referenced agreements shall not be construed as disapproval of other provisions of the agreements or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this permit.

(0000024)

9. (a) The equivalent of the authorized continuous flow allowance for any 30-day period may be diverted in a shorter time, up to a maximum instantaneous rate of 0.8 cfs, provided there is no interference with other rights and instream beneficial uses, and provided further that all terms and conditions protecting instream beneficial uses are observed.

(b) Once an additional water supply project acceptable to the Chief of the Division of Water Rights is constructed and produces water to offset the 10,780¹ afa Cal-Am deficit identified in Water Rights Order 95-10, the average rate of diversion and total amount authorized for diversion under this permit shall increase proportionally to the percentage of the 10,780 afa deficit which is eliminated by an additional water supply project. Once the additional water project has reached a production of 2,882 afa (26.7% of the 10,780 afa deficit), the average rate of diversion and the total quantity of water diverted shall increase to a final maximum of 0.63 cfs and 150 afa, respectively.

(0000027)

10. No water shall be appropriated under this permit for use in the Canada Woods subdivision until permittee has established a permanent organization which will, to the satisfaction of the SWRCB, properly operate and maintain the water supply system.

(0000028)

11. (a) The average rate of diversion, maximum rate of diversion, and total quantity of water diverted under Permits 20831 and 20832 combined shall not exceed 0.5 cfs, 0.8 cfs and 118.44 afa, respectively.

(b) Once an additional water supply project acceptable to the Chief of the Division of Water Rights is constructed and produces water to offset the 10,780¹ afa Cal-Am deficit identified in Water Rights Order 95-10, the maximum instantaneous rate of diversion shall be increased in proportion to the percentage of the 10,780 afa deficit that is eliminated by the additional water supply project. Once the additional water project has reached a production of 2,882 afa, the authorized instantaneous rate of diversion shall increase to a final maximum of 1.0 cfs.

(0000114)

12. Permittee shall install and maintain devices satisfactory to the SWRCB to measure the instantaneous rate of diversion and cumulative quantity of water diverted under this permit. A record of such measurements shall be maintained by the permittee, and made available to interested parties upon reasonable request. A copy of the records shall be submitted to the SWRCB with the annual "Progress Report by Permittee". Permittee shall allow MPWMD, or a designated representative, reasonable access to measuring devices for the purpose of verifying measurement readings.

(0060800)

(0090800)

13. The SWRCB reserves jurisdiction to assess the permittee a portion of the responsibility of implementation of the Water Allocation Mitigation Program should the Chief of the Division of Water Rights find that the Water Allocation Mitigation Program has not been adequately implemented by MPWMD and/or Cal-Am. Any action to assess permittee a portion of the responsibility of implementing the Water Allocation Mitigation Program shall be taken only after notice and opportunity for hearing.

(0400600)

14. This permit authorizes diversion of water from the Carmel River subterranean stream irrespective of whether the diversion may be characterized as direct diversion or diversion from the alluvial storage basin.
(0000999)

15. Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars and pestles) and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; and structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the Permittee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Chief of the Division of Water Rights for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Chief of the Division of Water Rights.
(0000215)

ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. The amount authorized for appropriation may be reduced in the license if investigation warrants.
(0000006)
- B. Progress reports shall be submitted promptly by permittee when requested by the SWRCB until a license is issued.
(0000010)
- C. Permittee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by said SWRCB, reasonable access to project works to determine compliance with the terms of this permit.
(0000011)
- D. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for

hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

- E. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

- F. This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

- G. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Resources Control Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.

(0000015)

- H. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State Department of Fish and Game and the permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the permittee. If a stream or lake agreement is not necessary for this permitted project, the permittee shall provide the Division of Water Rights a copy of a waiver signed by the State Department of Fish and Game.

(0000063)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

STATE WATER RESOURCES CONTROL BOARD

A handwritten signature in cursive script, appearing to read "Steven Herrera For".

Edward C. Anton
Division Chief

Dated: MAY - 2 2003

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20831

Application 30067 of Roy Kaufman

c/o Carmel Development Company, Post Office Box 4627, Carmel-by-the-Sea, CA 93921

filed on February 27, 1992, has been approved by the State Water Resources Control Board
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Carmel River (Subterranean Stream)

Pacific Ocean

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
<u>By California Coordinate System, Zone 4</u>					
North 448,078 feet and East 1,163,366 feet	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	22 *	16S	1E	MD
North 447,923 feet and East 1,163,751 feet	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	22 *	16S	1E	MD
North 447,520 feet and East 1,163,890 feet	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	22 *	16S	1E	MD
North 447,042 feet and East 1,163,980 feet	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	22	16S	1E	MD

* Projected

County of Monterey

3. Purpose of use:	4. Place of use:	Section *	Township	Range	Base and Meridian	Acres
Domestic						
Municipal						
Industrial						
Irrigation	NW $\frac{1}{4}$	14	16S	1E	MD	25.0
	NE $\frac{1}{4}$	15	16S	1E	MD	162.0
	NW $\frac{1}{4}$	15	16S	1E	MD	39.0
	SE $\frac{1}{4}$	15	16S	1E	MD	93.0
	SW $\frac{1}{4}$	15	16S	1E	MD	111.0
	NE $\frac{1}{4}$	22	16S	1E	MD	8.0
	NW $\frac{1}{4}$	22	16S	1E	MD	90.9
	SW $\frac{1}{4}$	22	16S	1E	MD	9.0
					TOTAL	537.0

* All projected except SW $\frac{1}{4}$ of Section 22

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a 30-day average of 0.63 cubic foot per second to be diverted from January 1 to December 31 of each year. The maximum amount diverted under this permit shall not exceed 147.0 acre-feet per year, until the New Los Padres Reservoir or an alternative project acceptable to the Chief of the Division of Water Rights is operable. At that time, the maximum amount diverted under this permit shall not exceed 150.0 acre-feet per year. (0000005)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Construction work shall be prosecuted with reasonable diligence and shall be completed by December 31, 2001. (0000007)

8. Complete application of the water to the authorized use shall be made by December 31, 2005. (0000008)

9. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)

10. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

(0000011)

11. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

12. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

13. During the season specified in this permit, the total quantity and rate of water diverted and used under this permit and under permittee's claimed existing right for the place of use specified in the permit shall not exceed the quantity and rate of diversion and use specified in this permit. To the extent that the permittee claims riparian, overlying, pre-1914 appropriative or other rights to use the water covered by this permit, the permittee shall not be entitled to water in excess of the amount authorized in this permit. Any priority obtained for a permit by virtue of condition 10 of Decision 1632 shall be void if the permittee and/or others divert more water under the permit and claimed underlying rights than is authorized on the face of the permit; however, the priority shall not be voided for the diversion of de minimis amounts which can be reasonably be attributed to operational uncertainties. Insofar as the permittee complies with this permit condition, this permit is senior to the permit issued to the Monterey Peninsula Water Management District pursuant to Application 27614.

Permittee shall forfeit all rights under this permit if permittee transfers all or any part of the claimed existing right for the place of use covered by this permit to another place of use without the prior approval of the State Water Resources Control Board.

Permittee shall take and use water under the existing right claimed by permittee only in accordance with law. (0000021)

14. Permittee shall comply with the following provisions which are derived from the two agreements between permittee and Monterey Peninsula Water Management District executed on August 21, 1992 and March 29, 1995; the agreement between permittee and the Department of Fish and Game executed on March 27, 1995; and the agreement between permittee and California Native Plant Society executed on March 29, 1995, all of which are filed with the State Water Resources Control Board:

- 1) Permittee shall remain subject to all lawful ordinances of the Monterey Peninsula Water Management District;
- 2) Permittee shall be subject to fees for the use of water from any public utility, including, but not limited to use fees, connection fees, and assessments;
- 3) The permittee shall be subject to the rationing requirements of the Monterey Peninsula Water Management District, in frequency and percentage no greater than required of consumers in the California-American Water Company's water distribution system in times of water supply shortage caused by drought;
- 4) Upon forty-eight (48) hours advance notice by Department of Fish and Game, permittee shall minimize or cease, if required, agricultural pumping for a single period not to exceed forty-eight (48) hours in any thirty (30) day period to assist the Department of Fish and Game, to mitigate adverse flow conditions to benefit public trust fish and wildlife resources of the Carmel River; and
- 5) The permittee shall irrigate and maintain the riparian corridor on permittee's property abutting the Carmel River if the Monterey Peninsula Water Management District and California-American Water Company fail to perform this obligation.

Inclusion in this permit of certain provisions of the referenced agreements shall not be construed as disapproval of other provisions of the agreements or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this permit. (0000024)

15. The equivalent of the authorized continuous flow allowance for any 30-day period may be diverted in a shorter time, up to a maximum instantaneous rate of 1.0 cubic foot per second, provided there is no interference with other rights and instream beneficial uses, and provided further that all terms and conditions protecting instream beneficial uses are observed. (0000027)

16. No water shall be appropriated under this permit for use in the Canada Woods subdivision until permittee has established a permanent organization which will, to the satisfaction of the State Water Resources Control Board, properly operate and maintain the water supply system. (0000028)

17. The average rate of diversion, maximum rate of diversion, and total quantity of water diverted under this permit together with that diverted under the permit issued pursuant to Application 30068 shall not exceed 0.63 cubic foot per second, 1.0 cubic foot per second and 160.0 acre-feet per annum, respectively. (0000114)

18. Permittee shall install and maintain devices satisfactory to the State Water Resources Control Board to measure the instantaneous rate of diversion and cumulative quantity of water diverted under this permit. A record of such measurements shall be maintained by the permittee, and made available to interested parties upon reasonable request. A copy of the records shall be submitted to the State Water Resources Control Board with the annual "Progress Report by Permittee". Permittee shall allow Monterey Peninsula Water Management District, or a designated representative, reasonable access to measuring devices for the purpose of verifying measurement readings. (0060800)
(0090800)

19. The SWRCB reserves jurisdiction to assess the permittee a portion of the responsibility of implementation of the Water Allocation Mitigation Program should the Chief of the Division of Water Rights find that the Water Allocation Mitigation Program has not been adequately implemented by the Monterey Peninsula Water Management District and/or the California-American Water Company. Any action to assess permittee a portion of the responsibility of implementing the Water Allocation Mitigation Program shall be taken only after notice and opportunity for hearing. (0400600).

20. This permit authorizes diversion of water from the Carmel River subterranean stream irrespective of whether the diversion may be characterized as direct diversion or diversion from the alluvial storage basin.

(0000999)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

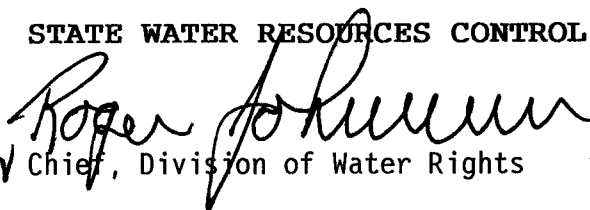
Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: March 29, 1996

STATE WATER RESOURCES CONTROL BOARD


for Chief, Division of Water Rights